

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

CASE NO.: 5:09-CR-216-8FL

UNITED STATES OF AMERICA)	
)	
vs.)	MOTION TO TAKE DEPOSITION
)	IN A FOREIGN COUNTRY
ZIYAD YAGHI,)	
)	
Defendant.)	

NOW COMES the Defendant, by and through the undersigned counsel, and moves this Honorable Court to be allowed to take a deposition in a foreign country, and in support of said Motion, shows unto the Court as follows:

1. The defendant was indicted on July 22, 2009, which indictment was superseded on Sept 24, 2009. The defendant is charged with two counts of a conspiracy to provide material support and resource in carrying out a conspiracy to murder, maim, kidnap or injure persons in a foreign country. The undersigned was appointed to represent the accused and entered a notice of appearance on July 28, 2009.

2. In Count 1, Overt Act 15 alleges that the defendant, Ziyad Yaghi, departed the United States for Jordan on or about October 7, 2006 to engage in violent jihad. The defendant has consistently denied that such was the purpose of his October, 2006 trip to Jordan but instead has maintained that the trip was undertaken for the purpose of finding a suitable bride, someone who was to be introduced to him by defendant's uncle, Ali Yaghi of Amman, Jordan.

3. The undersigned has spoken to the defendant's uncle, Ali M. Yaghi of Amman, Jordan. His telephone number is available so that he may be contacted when needed. Ali M. Yaghi informed the undersigned that he is the uncle of the defendant and that in the fall of 2006

he was requested to arrange meetings between the defendant and a Jordanian woman for the purpose of each evaluating whether they would wish to get married. To that effect, in October, Ziyad Yaghi, went to Amman and stayed at Ali Yaghi's home. During that time Ali Yaghi did introduce Ziyad Yaghi to the daughter of a family friend in hopes that his nephew and the young lady would become engaged and get married. For a variety of reasons the wedding did not take place, yet Ziyad Yaghi stayed with him. Defendant slept overnight there, and accompanied him to visit the young lady and her family, spending a considerable amount of time such that he had very little free time. Mr. Ali M. Yaghi also informed me that he copied Ziyad Yaghi's passport and provided the copy to Jordanian intelligence along with his report that Ziyad was staying with him while he searched for a bride. The undersigned has requested that the US Attorney's Office seek such report, via the FBI attaché in Amman, and provide the defense with a copy of that report.

4. During this interview Ali M. Yaghi stated that he would be willing to go to the American Embassy in Amman, Jordan for the purpose of giving a deposition, but he would not go to the embassy for accepting voluntarily service of a subpoena to travel to North Carolina for trial testimony. The defendant Ziyad Yaghi, has waived his presence at the deposition and a copy of the waiver is attached as Exhibit A to this motion.

5. A deposition of a witness may be ordered pursuant to Rule 15, F. R. Cr. P. because of exceptional circumstances and in the interest of justice. Here, the deponent's testimony corroborates statements that the defendant has made regarding the purpose of the October, 2006 trip to Jordan, and accounts for so much of his time that it is unlikely that the defendant had some other concealed purpose for the trip. The defense believes that such

testimony qualifies under the test set forth in Rule 15 and that the deponent's deposition in Amman, Jordan should be allowed subject to proper travel arrangements being made.

6. This trip was expected in the undersigned's budget filed with the court on January 25, 2010 wherein foreign travel to Amman, Jordan was budgeted at \$3750 for estimated air fare and hotel room expenses.

THEREFORE, it is requested that this court enter an order allowing the deposition listed above under the condition that it be arranged to take place prior to September 1, 2010.

Respectfully submitted this 27th day of April, 2010.

s/J. Douglas McCullough
J. Douglas McCullough
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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that he has this day served a copy of the foregoing pleading upon the following parties to this case by depositing a copy of the same in the United States mail bearing sufficient postage or electronically as indicated:

Via CM/ECF to the following:

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This 27th day of April, 2010.

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